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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:

SPENCER M. WERTZ,

Debtor.

Bankruptcy No. 19-29466

Chapter 7

SPENCER M. WERTZ

Plaintiff,

vs.

UTAH STATE TAX COMMISSION, an
agency,

Defendant.

Judge: Honorable

Adversary Case No.:

DEBTOR'S COMPLAINT FOR DISCHARGEABILITY OF DEBT

COMES NOW, Spencer M. Wertz (Plaintiff/Debtor), by and through their counsel Jennifer R. Jackson, and the Law Firm of Cook & Monahan, LLC, hereby files this Complaint against the Utah State Tax Commission to determine the dischargeability of debtor's 2014 Utah State income taxes pursuant to 11 U.S.C. § 523(a)(1) and 727 and Fed. R. Bankr. P. 7001 and 4007(c).

In support thereof, the Plaintiff would show the Court as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 1334(b) § 157(b) and 11 U.S.C. §523. This is a core proceeding under title 11 because it concerns a determination as to the dischargeability of a debt as outlined in 28 U.S.C. § 157(b)(2)(I).

2. This Adversary Proceeding is brought pursuant to 11 U.S.C § 523(a)(1) and Federal Rules of Bankruptcy Procedure Rule 7001.

3. Venue is proper in the District of District of Utah pursuant to 28 U.S.C. § 1409 because this matter arises in and is related to a bankruptcy case in this district.

4. On December 31, 2019, Spencer M. Wertz, Debtor in the above case commenced this action under Chapter 7 of the Bankruptcy Code.

5. As of the date of this Complaint the Debtors have not been granted a discharge.

6. This Complaint is timely because the date by which a Complaint objecting to the Debtor's discharge or to determine dischargeability of a debt expires on April 06, 2020.

7. Pursuant to Fed. R. Bankr. P. 7008, Debtors consent to the entry of final orders or judgment by the bankruptcy court.

IDENTIFICATION OF PARTIES

8. Spencer M. Wertz is an individual residing in the State of Utah, Salt Lake County.

9. The Utah State Tax Commission is a government agency which operates under the authority of the Utah State Constitution that in the ordinary course of business regularly, on

behalf of itself or others, engages in the servicing of state income tax debts in the State of Utah.

FIRST CAUSE OF ACTION – 2014 TAX YEAR

10. Plaintiff hereby incorporates by this reference the allegations set forth above as if fully set forth herein.

11. Plaintiff timely filed their 2014 State Income Tax return, was not fraudulent and ended up owing \$440.85.

12. The Utah State Tax Commission is seeking to collect \$444.24 in income taxes, penalties and interest for the 2014 tax year.

13. With respect to the 2014 tax year, the return was last due, including extensions, more than three years before the date when the Debtor filed his Chapter 7 Petition.

14. The 2014 income tax debt has been assessed by the Utah State Tax Commission on May 02, 2019, which is more than 240 days before the debtors filed their bankruptcy petition.

15. The taxes for 2014 sought to be collected by the Utah State Tax Commission are not a tax entitled to priority pursuant to 11 U.S.C. §507(a)(8); therefore, the subject tax debt does not come within the exception to discharge provided for in 11 U.S.C. §523(a)(1)(A).

16. Debtor did not willfully attempt in any manner to evade or defeat any and all taxes alleged to be owed by the IRS for the 2014 tax year.

17. Plaintiff has made payments towards the unpaid balance to the Utah State Tax Commission and are not otherwise engaged in willful tax fraud or evasion.

18. Pursuant to 11 U.S.C. § 523(a)(1) Debtor request the Court determine that any and all taxes, fines, penalties and other amounts related or otherwise regarding the 2014 tax year due and owing to the Utah State Tax Commission be determined to be dischargeable and discharged.

PRAYER FOR RELIEF

WHEREFORE PREMISES CONSIDERED, Plaintiff/Debtor prays that the Court enter judgment in their favor determining that any and all taxes, fines, penalties and other amounts related or otherwise regarding their 2014 tax year due and owing to the Utah State Tax Commission are discharged for the reasons alleged in the above and foregoing Complaint and for such other relief as the Court deems equitable.

DATED this 14th day of February 2020.

Respectfully Submitted,

/s/ Jennifer R. Jackson
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Attorney for Plaintiff/Debtor

Plaintiff's address
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